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Dated: July 6, 2010

Electronic Signature for Nicholas J. DiCeglie, Jr.: /Nicholas J. DiCeglie, Jr./

Docket No.: 62660(52171)
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Alexander Doemling et al.

Application No.: 10/520,791

Confirmation No.: 3248

Filed: January 8, 2005

Art Unit: 1654

For: TUBULYSIN CONJUGATES

Examiner: S. R. Gudibande

TRANSMITTAL LETTER

Applicants filed the issue fee for the above-identified application (the "Application") with the USPTO on July 6, 2010.

Applicants and the undersigned attorney have noted that two references were crossed off from the SB/08 form which was filed with the Application on December 2, 2005. Specifically, the Examiner has crossed off Reference AA : U.S. Patent Application Publication No. 2005/0239713 and Reference BA: International Application No. WO 98/13375. Applicants note that no explanation was given by the Examiner for the strikethrough of the references and no statement was made that such references were not considered. As such, it appears the Examiner has not considered these references.

Nevertheless, Applicants note that the Examiner cited German Patent Document DE 19638870 in the Restriction Requirement dated November 3, 2005. DE 19638870 is the German Priority document to WO 98/13375. Similarly, the Examiner rejected the application for non-statutory double-patenting over Application No. 10/520,793. Application No. 10/520,793 corresponds directly to U.S. Patent Application Publication No. 2005/0239713. As such, Applicants believe that both documents were properly reviewed and considered by the Examiner.

It is understood that no documents may be considered (or, in this case, re-considered) and made of record following payment of the issue fee. It also is not believed to be necessary or desirable to withdraw the Application from allowance/issuance in order to re-file the Application and re-submit the Information Disclosure Statement. Nonetheless, Applicants hereby request that US 2005/0239713 and WO 96/13375 be listed on the cover page of the patent which issues from the Application as they were properly considered by the Examiner.

Applicants also request that their diligent efforts to bring this error to the attention of USPTO be reflected in the file history for the Application. Accordingly, Applicants request that a copy of this letter, along with the additional copies of US 2005/0239713 and WO 96/13375 submitted herewith, be included in the USPTO file for the Application.

Applicants believe that no additional fees are required for consideration and entry of this paper. However, Applicants authorize the Director to charge any required fee or credit any overpayment to Deposit Account No. 04-1105.

Dated: July 6, 2010

Respectfully submitted,

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